

SOUTH CAROLINA DEPARTMENT OF AGRICULTURE

HEMP PRODUCTS IN HUMAN FOOD

QUICK GUIDE

CBD & DELTA-8 IN FOODS

It's unlawful under the Federal Food Drug and Cosmetic Act (FD&C Act) to introduce food containing Delta-8 or added CBD into interstate commerce, or to market Delta-8 or CBD products as, or in, dietary supplements. For CBD, this is because CBD is an active ingredient in an FDA-approved drug and was the subject of substantial clinical investigations before it was ever marketed as a food or dietary supplement. For Delta-8, this is because Delta-8 THC is an unapproved food additive for use in any human or animal food product, as the FDA has not concluded that the substances are generally recognized as safe or otherwise exempt from food additive requirements.

SCDA, therefore, cannot allow foods with CBD (the active ingredient in a drug product) or Delta-8 (an unapproved food additive) to be manufactured in SC.

Further, it is SCDA's understanding that the sale or possession of hemp plant material (including dried hemp flowers) without a Grower or Processor License is not permitted under state law.

Hemp is a plant (and an approved food additive) and CBD and Delta-8 are compounds. Hemp is not CBD or Delta-8. "Partially processed" hemp is not CBD, either. Even "full spectrum" hemp extracts suspended in a carrier oil are more akin to hemp than pure CBD since they contain an array of phytonutrients. Although such extracts include CBD, they cannot in any reasonable sense be called CBD.

NON-APPROVED HEMP FOOD INGREDIENTS

- Pure CBD isolate
- Delta-8
- "Full spectrum" whole-plant extract (i.e. hemp oil) if it includes health claims or if bears any sort of declaration of CBD
- Any hemp or hemp-derived product that promotes its medical or health benefits

JUSTIFICATION

Under section 301(ii) of the FD&C Act, it is prohibited to introduce or deliver for introduction into interstate commerce any food (including any animal food or feed) to which has been added a substance which is an active ingredient in a drug product that has been approved under 21 U.S.C. § 355 (section 505 of the Act) or a drug for which substantial clinical investigations have been instituted and for which the existence of such investigations has been made public.

Under Section 402(a)(2)(C)(i) of the FD&C unapproved food additives may not be added to food.

In order to manufacture and wholesale food products with approved hemp ingredients, companies will need to apply for a Registration Verification Certificate (RVC). Please refer to our Food Establishment Quick Guide for more information.

APPROVED HEMP FOOD INGREDIENTS

- Hemp seeds*
- Hemp seed protein
- Hemp seed oil
- Hemp leaves and micro greens*
- Chopped hemp plant material*
- "Full spectrum" whole-plant extract (i.e. hemp oil) if it contains the naturally occurring array of phytonutrients found in hemp (which include naturally occurring CBD) and if it does not include health claims, and if it does not bear any sort of declaration of CBD

JUSTIFICATION

The FDA announced that it "has completed [its] evaluation of three Generally Recognized as Safe (GRAS) notices related to hulled hemp seeds, hemp seed protein and hemp seed oil and that the agency had no questions regarding the company's conclusion that the use of such products as described in the notices is safe."

***Please note that these items may not be sold in their raw, unprocessed form as they are considered "plant material" and may not be possessed without a Grower or Processor License. These items must be added to a processed hemp product before they are sold.**

For questions about hemp products in human food, please contact:

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